

MERCED COUNTY

Audit Report

COURT REVENUES

July 1, 2006, through June 30, 2011



JOHN CHIANG
California State Controller

October 2012



JOHN CHIANG
California State Controller

October 9, 2012

The Honorable Lisa Cardella-Presto
Auditor-Controller
Merced County
2222 M Street
Merced, CA 95340

Linda Romero Soles
Court Executive Officer
Superior Court of California,
Merced County
670 West 22nd Street
Merced, CA 95340

Dear Ms. Cardella-Presto and Ms. Romero Soles:

The State Controller's Office (SCO) audited Merced County's court revenues for the period of July 1, 2006, through June 30, 2011.

Our audit disclosed that the county underremitted \$674,130 in court revenues to the State Treasurer because it:

- Underremitted 50% excess of fines, fees, and penalties by \$702,577
- Overremitted penalties and surcharges from transposition errors by \$252,167
- Underremitted penalties and surcharges from DUI alcohol violations by \$149,364
- Underremitted state parking surcharges and fines by \$74,356

The County Auditor-Controller's Office should remit the balance of \$674,130 to the State Treasurer.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2006, through June 30, 2011.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Joe Vintze, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250-5872

Once the county has paid the underremitted Trial Court Trust Fund, Trial Court Improvement Fund, and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Sandeep Singh, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office
Richard J. Chivaro, Chief Counsel
State Controller's Office
Merced County Board of Supervisors

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
Follow-Up on Prior Audit Findings	2
Views of Responsible Officials.....	3
Restricted Use	3
Schedule 1—Summary of Audit Findings by Fiscal Year	4
Schedule 2—Summary of Underremittances by Month, Trial Court Trust Fund	5
Schedule 3—Summary of Underremittances by Month, Trial Court Improvement Fund	6
Schedule 4—Summary of Underremittances by Month, State Court Facilities Construction Fund	7
Schedule 5—Summary of Overremittances by Month.....	8
Findings and Recommendations.....	9
Attachment A—County Auditor-Controller’s Response to Draft Audit Report	
Attachment B—Court’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Merced County for the period of July 1, 2006, through June 30, 2011.

Our audit disclosed that the county underremitted \$674,130 in court revenues to the State Treasurer because it:

- Underremitted 50% excess of fines, fees, and penalties by \$702,577
- Overremitted penalties and surcharges from transposition errors by \$252,167
- Underremitted penalties and surcharges from DUI alcohol violations by \$149,364
- Underremitted state parking surcharges and fines by \$74,356

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2006, through June 30, 2011. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Revenue and Recovery Department, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions
- Evaluated the accuracy of revenue distribution, using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts
- Tested for any incorrect distributions
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Merced County underremitted \$674,130 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued August 8, 2008.

**Views of
Responsible
Officials**

We issued a draft audit report on June 8, 2012 and we received a response from both the County Auditor-Controller and the Merced County Court Executive Officer. The County agreed with the results of our audit with the exception of Finding 4. The Court agreed with the results of our audit except for the stated cause of Finding 5. The County Auditor-Controller and the Merced County Court Executive Officer's comments are included as an attachment to this report.

Restricted Use

This report is solely for the information and use of Merced County, the Merced County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

October 9, 2012

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2006, through June 30, 2011

Description of Finding Account Title ¹ —Code Section	Fiscal Year					Total	Reference ²
	2006-07	2007-08	2008-09	2009-10	2010-11		
Underremitted 50% excess of fines, penalties and fees:							
Trial Court Improvement Fund—GC §77205	\$ 160,110	\$ 116,864	\$ 131,548	\$ 111,296	\$ 182,759	\$ 702,577	Finding 1
Inaccurate distribution of state penalties and surcharges:							
State Penalty Fund—PC §1464	—	17,290	—	—	(286,519)	(269,229)	Finding 2
State Court Facilities Construction Fund—GC §70372	—	7,293	—	—	—	7,293	Finding 2
State General Fund (20% Surcharge)—PC §1465.7	—	5,470	—	—	—	5,470	Finding 2
State DNA Fund—GC §76104.6	—	2,279	—	—	—	2,279	Finding 2
State DNA Fund—GC §76104.7	—	1,117	—	—	—	1,117	Finding 2
State Trial Court Improvement Fund—GC §68090.8	—	903	—	—	—	903	Finding 2
Underremitted penalties from DUI alcohol fines:							
State Penalty Fund—PC §1464	9,293	11,648	17,610	14,463	15,546	68,560	Finding 3
State Court Facilities Construction Fund—GC §70372	6,638	8,320	12,578	10,331	11,105	48,972	Finding 3
State General Fund (20% Surcharge)—PC §1465.7	2,655	3,328	5,031	4,132	4,442	19,588	Finding 3
State DNA Fund—GC §76104.7	1,328	1,664	2,516	2,066	2,221	9,795	Finding 3
State DNA Fund—GC §76104.6	332	416	629	517	555	2,449	Finding 3
Underremitted state parking surcharges and fines:							
State Court Facilities Construction Fund—GC §70372(b)	—	—	6,455	16,215	19,590	42,260	Finding 4
State Court Facilities Construction Fund—GC §70372(f)(2)	—	—	3,227	8,107	9,795	21,129	Finding 4
Trail Court Trust Fund—GC §76000.3	—	—	—	—	10,967	10,967	Finding 4
Total	<u>\$ 180,356</u>	<u>\$ 176,592</u>	<u>\$ 179,594</u>	<u>\$ 167,127</u>	<u>\$ (29,539)</u>	<u>\$ 674,130</u>	

Legend: GC = Government Code; PC = Penal Code

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the remittance advice form TC-31 to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Trust Fund
July 1, 2006, through June 30, 2011**

Month	Fiscal Year				
	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—
September	—	—	—	—	—
October	—	—	—	—	—
November	—	—	—	—	—
December	—	—	—	—	1,266
January	—	—	—	—	1,200
February	—	—	—	—	1,797
March	—	—	—	—	2,175
April	—	—	—	—	1,801
May	—	—	—	—	1,519
June	—	—	—	—	1,209
Total underremittances to the State Treasurer	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 10,967</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 3—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2006, through June 30, 2011**

Month	Fiscal Year				
	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—
September	—	—	—	—	—
October	—	—	—	—	—
November	—	—	—	—	—
December	—	—	—	—	—
January	—	—	—	—	—
February	—	903	—	—	—
March	—	—	—	—	—
April	—	—	—	—	—
May	—	—	—	—	—
June	160,110	116,864	131,548	111,296	182,759
Total underremittances to the State Treasurer	<u>\$ 160,110</u>	<u>\$ 117,767</u>	<u>\$ 131,548</u>	<u>\$ 111,296</u>	<u>\$ 182,759</u>

NOTE: Delinquent Trial Court Improvement Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

**Schedule 4—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2006, through June 30, 2011**

Month	Fiscal Year				
	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ 553	\$ 693	\$ 1,048	\$ 2,853	\$ 3,405
August	553	693	1,048	2,920	2,802
September	553	693	1,048	3,559	4,125
October	553	693	1,048	3,258	3,833
November	553	693	1,048	2,704	3,396
December	553	693	1,048	2,322	2,825
January	553	693	2,149	2,421	2,726
February	553	7,986	2,869	3,569	3,621
March	553	694	3,044	3,191	4,188
April	553	694	2,833	2,817	3,626
May	554	694	2,653	2,583	3,203
June	554	694	2,424	2,456	2,740
Total underremittances to the State Treasurer	<u>\$ 6,638</u>	<u>\$ 15,613</u>	<u>\$ 22,260</u>	<u>\$ 34,653</u>	<u>\$ 40,490</u>

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

**Schedule 5—
Summary of Overremittances by Month
July 1, 2006, through June 30, 2011**

Month	Fiscal Year				
	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—
September	—	—	—	—	—
October	—	—	—	—	—
November	—	—	—	—	—
December	—	—	—	—	—
January	—	—	—	—	—
February	—	—	—	—	5,675
March	—	—	—	—	73,744
April	—	—	—	—	67,034
May	—	—	—	—	64,268
June	—	—	—	—	75,798
Total overremittances to the State Treasurer	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 286,519</u>

Findings and Recommendations

FINDING 1— Underremitted 50% excess of qualified fines, fees, and penalties

The County Auditor-Controller's Office underremitted by \$702,577 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five-fiscal-year period starting July 1, 2006, and ending June 30, 2011.

Government Code (GC) section 77201(b)(2) requires Merced County, for its base revenue obligation, to remit \$1,733,156 for fiscal year (FY) 2006-07 and each fiscal year thereafter. In addition, Government Code (GC) section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers and as a result of the following conditions:

- The Auditor-Controller's Office did not correctly report qualifying revenues to be included in the MOE starting in July 2006 through June 2011. The adjustments caused an increase in county base fines by \$1,334,345 ($\$1,779,127 \times 75\%$) and increases to administration screening fees, citation processing fees, and parking surcharges by \$7,837, \$384, and \$7,033, respectively. In total, \$1,349,599 should have been included in the MOE.
- As noted in Finding 2, Traffic Violator School bail was distributed as state penalties starting in February 2011, through June 2011; \$220,620 ($\$286,519 \times 77\%$) should have been included in the MOE. In addition, an adjustment was made in February 2008 to redistribute prior year alcohol fines. The adjustment erroneously was applied to county and state penalties. The adjustment caused a decrease to base fines by \$49,886 and an increase to 30% state penalties by \$8,286. In net total, \$179,020 should have been included the MOE.
- As noted in Finding 3, alcohol fines per Penal Code (PC) section 1463.16, PC section 1463.14, and PC section 1463.18 were distributed as fees without penalties starting in July 2006 through June 2011. The adjustment caused a decrease in base fines by \$205,682 ($\$274,242 \times 75\%$) and an increase in 30% state penalties by \$29,383. In net total, \$176,299 should have been included in the MOE.
- As noted in Finding 4, the University of Merced and the Merced Community College did not remit parking surcharges starting in July 2006 through June 2011; \$52,832 should have been included in the MOE.

The qualified revenues reported for FY 2006-07 were \$3,376,729. The excess, above the base of \$1,733,156, is \$1,643,573. This amount should be divided equally between the county and the State, resulting in \$821,787 excess due the State. The county has remitted a previous payment of \$661,677, causing an underremittance of \$160,110.

The qualified revenues reported for FY 2007-08 were \$3,494,274. The excess, above the base of \$1,733,156, is \$1,761,118. This amount should be divided equally between the county and the State, resulting in \$880,559 excess due the State. The county has remitted a previous payment of \$763,695, causing an underremittance of \$116,864.

The qualified revenues reported for FY 2008-09 were \$3,530,450. The excess, above the base of \$1,733,156, is \$1,797,294. This amount should be divided equally between the county and the State, resulting in \$898,647 excess due the State. The county has remitted a previous payment of \$767,099, causing an underremittance of \$131,548.

The qualified revenues reported for FY 2009-10 were \$3,344,113. The excess, above the base of \$1,733,156, is \$1,610,957. This amount should be divided equally between the county and the State, resulting in \$805,479 excess due the State. The county has remitted a previous payment of \$694,183, causing an underremittance of \$111,296.

The qualified revenues reported for FY 2010-11 were \$3,332,619. The excess, above the base of \$1,733,156, is \$1,599,463. This amount should be divided equally between the county and the State, resulting in \$799,732 excess due the State. The county has remitted a previous payment of \$616,973, causing an underremittance of \$182,759.

The following table shows the effect of the over- and underremittances:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2006-07	\$ 160,110
FY 2007-08	116,864
FY 2008-09	131,548
FY 2009-10	111,296
FY 2010-11	182,759
County General Fund	(702,577)

Recommendation

The county should remit \$702,577 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county should also make the corresponding account adjustments.

County-Auditor Controller's Response

We agree with this finding with the exception of amounts relating to Finding 4 relating to one of the colleges.

Superior Court's Response

The Court agreed with the findings and recommendations except for the stated cause of the finding noted in Finding 5.

SCO's Comment

The finding remains as stated.

**FINDING 2—
Overremitted
penalties and
surcharges due to
transposition errors**

The County Auditor-Controller's Office distributed a portion of traffic violator school (TVS) bail as State penalties starting February 2011 through June 2011. In addition, in February 2008, the county made an adjustment to State and county penalties to offset a distribution to alcohol fines not distributed in the prior year. County personnel indicated the required distribution was inadvertently overlooked.

Vehicle Code (VC) section 42007 requires 100 percent of total traffic violator school bail exclusive of all fines, assessments and penalty amounts be deposited into the County General Fund. State Penalties are not part of any exclusion noted in the statute.

Alcohol Program fines (PC section 1463.16) and alcohol lab fines (PC section 1463.14) should be inclusive of the total fine. Any offset of one fine component to another fine component should only be within the general base fines and not applied to penalties.

The inappropriate distributions for State penalties affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance of Effort (MOE) formula pursuant to GC Section 77205. In addition, the inappropriate distribution had the following effects:

Account Title	Understated/ (Overstated)
State Penalty Fund-PC §1464	\$ (269,229)
State Court Facility Construction Fund-GC §70372	7,293
State General Fund (20% surcharge)-PC §1465.7	5,470
State DNA Fund-GC §76104.6	2,279
State DNA Fund-GC §76104.7	1,117
State Trial Court Improvement Fund-GC §68090.8	903
County General Fund	228,291
County EMS Fund	10,410
County Courthouse Construction Fund	5,558
County Jail Facility Fund	5,558
County Fingerprint Fund	1,233
County DNA Fund	1,117

Recommendation

The county should offset subsequent remittances by \$252,167 to the State Treasurer and report on the remittance advice (TC-31) a decrease of \$269,229 to the State Penalty Fund-PC section 1464, and increases of \$7,293 to the State Court Facilities Construction Fund-GC section 70372(a), \$5,470 to State General Fund (20% Surcharge)-PC section 1465.7, \$2,279 to the State DNA Identification Fund-GC section 76101.6, \$1,117 to the State DNA Identification Fund-GC section 76101.7, and \$903 to the State Trial Court Improvement Fund-GC section 68090.8. The county should also make the corresponding account adjustments.

County-Auditor Controller's Response

We agree with this finding with the explanation that the Courts provided information that caused the Vehicle Code Section 42007 remittances to be recorded as State revenues when they should have been County General Fund revenues. This occurred during the Court's implementation of a new automated system that changed the revenue reporting form which the County has no authority to change as the Courts are a State agency.

Superior Court's Response

The Court agreed with the findings and recommendations except for the stated cause of the finding noted in Finding 5.

SCO's Comment

The finding remains as stated.

**FINDING 3—
Underremitted
surcharges and
penalties on DUI
alcohol violations**

The Merced County Revenue and Recovery Department did not correctly distribute penalties and surcharges on alcohol program, alcohol lab, and victim restitution fines. County personnel indicated the required distribution was inadvertently overlooked.

Alcohol Program fines (PC section 1463.16), alcohol lab fines (PC section 1463.18), and victims indemnity restitution fines (PC section 1463.18) are fines and should be inclusive of the total fine and subject to the application of penalties.

The inappropriate distributions of county and State penalties affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. In addition, the inappropriate distribution had the following effects:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Penalty Fund–PC §146	\$ 68,560
State Court Faculty Construction Fund–GC §70372	48,972
State General Fund (20% surcharge)–PC §1465.7	19,588
State DNA Fund–GC §76104.7	9,795
State DNA Fund–GC §76104.6	2,449
County General Fund	(244,859)
County EMS Fund	39,177
County Courthouse Construction Fund	22,037
County Jail Facility Fund	22,037
County DNA Fund	7,347
County Fingerprint Fund	4,897

Recommendation

The county should remit \$149,364 to the State Treasurer and report on the remittance advice (TC-31) increases of \$68,560 to the State Penalty Fund–PC section 1464, \$48,972 to the State Court Facilities Construction Fund–GC section 70372(a), \$19,588 to State General Fund (20% Surcharge)–PC section 1465.7, \$9,795 to the State DNA Identification Fund–GC section 76101.7, and \$2,449 to the State DNA Identification Fund–GC section 76101.6. The county should also make the corresponding account adjustments.

County Auditor-Controller's Response

The County Auditor-Controller did not respond to this finding.

Superior Court's Response

The Court agreed with the findings and recommendations except for the stated cause of the finding noted in Finding 5.

SCO's Comment

The finding remains as stated.

**FINDING 4—
Underremitted state
parking fines and
surcharges**

The University of Merced and the Merced Community College did not distribute county and State parking surcharges and fines starting in July 2006 through June 2011. College parking enforcement personnel indicated the required distribution was inadvertently overlooked.

VC section 40200.4 requires the processing agencies to deposit with the county treasurer all sums due the county from parking violations.

GC section 76000(c) requires the county to deposit \$2.50 parking surcharge in both the County Courthouse Construction Fund and Criminal Justice Facilities Fund, from each parking fine collected. Further, this section requires \$1 of each \$2.50 parking surcharge to be distributed to the State General Fund.

GC section 70372 requires the county to distribute to the State Court Facility Construction Fund an additional penalty of \$4.50 for every parking fine or forfeiture starting January 2009.

GC section 76000.3 requires the county to distribute to the State Trial Court Trust Fund an additional penalty of \$3.00 for every parking fine or forfeiture starting December 2009.

The inappropriate distributions for parking surcharges and fines affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance of Effort formula pursuant to GC section 77205. In addition, the inappropriate distribution had the following effects:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund (ICNA)–GC §70372(b)	\$ 42,260
State Court Facility Construction Fund–GC §70372(f)(2)	21,129
State Trial Court Trust Fund–GC §76000.3	10,967
County General Fund	52,829
County Courthouse Construction Fund	39,624
County Jail Facility Fund	39,624
University of Merced	(107,304)
Merced Community College	(99,129)

Recommendation

The county should remit \$74,356 to the State Treasurer and report on the remittance advice (TC-31) increases of \$42,260 to the State Court Facilities Construction Fund (ICNA)–GC section 70372(b), \$21,129 to the State Court Facilities Construction Fund–GC section 70372(f)(2), and \$10,967 to State Trial Court Trust Fund–GC section 76100.3. The county should also make the corresponding account adjustments.

County Auditor-Controller’s Response

Merced College has made partial remittance and is not in agreement with the audited amounts. Merced College paid \$60,226 of the \$99,129 stating “the statute of limitations for any collection against the District in this regard is (3) years.”

Superior Court’s Response

The Court agreed with the findings and recommendations except for the stated cause of the finding noted in Finding 5.

SCO’s Comment

The statute of limitations or record retention guidelines followed by the SCO are stated in the Administrative Office of the Courts (AOC), *Trial Court Financial Policies and Procedures* (FIN 12.01) which requires in section 1.6.5 Record Storage and Preservation, “Receipts for Fines, Fees, Penalties Collected and other collection receipts” requires the current year plus four additional years (**or from the close date of the SCO audit, whichever is longer**, emphasis added). This requirement states that records must be safeguarded from the end of the previous SCO Court Revenue Program audit. The finding remains unchanged.

**FINDING 5—
Inappropriate
distribution of EMAT
penalties**

The Superior Court of Merced County levied \$4 state emergency medical air transportation (EMAT) penalty on TVS bail starting January 2011. Court personnel indicated the required distribution was inadvertently overlooked.

Starting January 1, 2011, GC section 76000.1 requires a \$4 penalty upon every fine levied on criminal offenses including traffic offenses, but excluding parking offenses. However, upon the election of traffic violator school, the fines and penalties are converted to TVS bail as mandated by VC section 42007. Therefore, because EMAT penalties are not included in the exceptions listed within VC section 42007, they should remain as TVS bail.

Failure to make the required priority distribution causes distributions to the State and county to be inaccurately stated. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The court should take steps to insure that EMAT penalties are distributed in accordance with the statutory requirements.

County Auditor-Controller's Response

We agree with this non-monetary finding and will make the required distribution of Emergency Medical Air Transportation when the Courts provide remittance and reporting of EMAT revenues to the County. As of the date of this letter, the Courts have not yet made procedural changes to affect this remittance which the County has no authority to implement as the Courts are a State agency.

Superior Court's Response

The court agrees with the findings and recommendations with the following exceptions: Page 14 of the draft audit, (see draft language in the first paragraph, second sentence), "Court personnel indicated the required distribution was inadvertently overlooked." A more accurate statement is that "Court personnel indicated distribution is oftentimes left to individual interpretation and that Merced's CMS distribution is configured with the assistance of an AOC Contractor based on the specific Case Management System (Sustain).

The court also stated that to their knowledge the Case Management System is not built to redistribute fines and fees based on if/then statements such as "if fines are paid as TVS, then remove \$4 EMAT and redistribute to TVS Bail". The Court indicated the difficulty with such distributions and suggested such distributions be reviewed and eliminated."

SCO's Comment

The finding remains as stated.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**



AUDITOR-CONTROLLER

Lisa Cardella-Presto, CPA
Auditor-Controller

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Equal Opportunity Employer

June 27, 2012

Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, California 94250-5874

Subject: State Controller's Office audit of County of Merced court revenues for the period July 2006 through June 30, 2011 (FY 06 to FY 11)

The County of Merced has reviewed the draft audit report of court revenues issued June 8, 2012 prepared by your office. The following are responses to your audit findings.

We appreciate the professional manner which your staff, Mr. Gary D. Weiner, conducted the audit and provided supporting information.

One of our concerns with respect to the State Audit is that it covers a five year period, and as such, audits do not provide timely disclosure of misinterpretations by the County and other reporting entities collection efforts. A shorter review period would benefit both the State and County in order to remit agreed upon amounts in a timely manner and especially to avoid assessing penalties and interest on any amounts owed.

The County agrees with the findings and recommendations of the under-remitted and over-remitted amounts with some exceptions and additional comments as discussed below. The County corrected the prior distributions and made payment to the State Treasurer pending receipt of the final audit report to cease the penalty and interest from accruing on the funds. Distributions for subsequent periods have been modified to ensure compliance with the State statutes.

Finding 1 – Under-remitted 50% excess of qualified fines, fees and penalties.

We agree with this finding with the exception of amounts relating to Finding 4 relating to one of the colleges as stated below.

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Finding 2 – Over-remitted penalties and surcharges due to transposition errors.

We agree with this finding with the explanation that the Courts provided information that caused the Vehicle Code Section 42007 remittances to be recorded as State revenues when they should have been County General Fund revenues. This occurred during the Court's implementation of a new automated system that changed the revenue reporting form which the County has no authority to change as the Courts are a State agency.

Finding 4 – Under-remitted state parking fines and surcharges

We are unable to agree or disagree with the findings as the parking revenue was not deposited to the County Treasury nor do we have access to the colleges' records. Subsequent to the audit, the University of Merced remitted the full amount which has been forwarded to the proper entities and trust funds and they have established procedures to remit these revenues to the County for subsequent periods.

Merced College has made partial remittance and is not in agreement with the audited amounts. Merced College paid \$60,226 of the \$99,129 stating "the statute of limitations for any collection against the District in this regard is (3) years". A reimbursement will be requested for any amounts remitted to the State that are uncollectable. As Merced College is a separate local agency we do not have the authority to affect remittance. A reimbursement will be requested for any amounts remitted to the State that are uncollectable. Merced College has established procedures to remit these revenues to the County for subsequent periods.

Finding 5 – Inappropriate distribution of EMAT penalties

We agree with this non-monetary finding and will make the required distribution of Emergency Medical Air Transportation when the Courts provide remittance and reporting of EMAT revenues to the County. As of the date of this letter, the Courts have not yet made procedural changes to affect this remittance which the County has no authority to implement as the Courts are a State agency.

If you have any questions or further information please contact the Merced County Auditor-Controller's office at 209 385 7511.

Sincerely,



Lisa Cardella-Presto, CPA
Merced County Auditor-Controller

cc: James Brown, CEO
Linda Romero Soles, Court Executive Officer
The Honorable Brian L. McCabe, Presiding Judge

**Attachment B—
Court's Response to
Draft Audit Report**



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

www.merced.courts.ca.gov

LINDA ROMERO SOLES
COURT EXECUTIVE OFFICER

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June 29, 2012

Mr. Steve Mar, Chief
Local Government Bureau
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94258-5874

Subject: State Controller's Office audit of County of Merced court revenues for the period July 2006 through June 30, 2011.

The Superior Court, County of Merced, has reviewed the draft audit report of court revenues issued June 8, 2012. The following is the courts response to your audit findings.

The court agrees with the findings and recommendations with the following exception: Page 14 of the draft audit, (see draft language in the first paragraph, second sentence), "Court personnel indicated the required distribution was inadvertently overlooked." A more accurate statement is that "Court personnel indicated distribution is oftentimes left to individual interpretation and that Merced's CMS distribution is configured with the assistance of an AOC Contractor based on the specific Case Management System (Sustain).

The court also stated that to their knowledge the Case Management System is not built to redistribute fines and fees based on if/then statements such as "if fines are paid as TVS, then remove \$4 EMAT and redistribute to TVS Bail". The Court indicated the difficulty with such distributions and suggested such distributions be reviewed and eliminated."

Thank you for the opportunity to provide our comments on the draft audit report. It was a pleasure assisting your staff throughout this audit process.

If you have any questions or need further information please do not hesitate to contact me or Ronna Uliana, CFO at (209) 725-4101.

Sincerely,

Linda Romero Soles
Court Executive Officer

cc: The Honorable Brian L. McCabe, Presiding Judge
Ronna Uliana, Superior Court Chief Financial Officer
James Brown, Merced County Chief Executive Officer
Lisa Cardella-Presto, CPA, Merced County Auditor-Controller

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